IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

1) S.B. CIVIL WRIT PETITION NO.3422/2007.
Pioneer Publicity Corpn.
Vs.
State & ors.

2) S.B. CIVIL WRIT PETITION NO.3423/2007.
M/s.PK Advertising Services Pvt.Ltd.
Vs.
State & ors.

3) S.B. CIVIL WRIT PETITION NO.3424/2007.
Praveen Publicity
Vs.
State & ors.

4) S.B. CIVIL WRIT PETITION NO.3425/2007.
N.S. Publicity Agencies
Vs.
State & ors.

5) S.B. CIVIL WRIT PETITION NO.3259/2007.
M/s.Selvel Advertising Pvt.Ltd.
Vs.
State & ors.

6) S.B. CIVIL WRIT PETITION NO.8809/2006.

Paramount Advertising
Vs.
State & ors.

7) S.B. CIVIL WRIT PETITION NO.9512/2005.
Paramount Advertising Services
Vs.
State & ors.

Date of Order : 7/5/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri S.M. Mehta, Sr.Advocate with
Shri R.S. Mehta for the petitioner.
Shri A.K. Sharma with
Shri Mukesh Meena for the petitioner.
Shri Manish Bhandari for Municipal Corporation Jaipur respondent No.2.
Shri B.S. Chhaba Dy.GA for the State.
Shri Suresh Pareek for Union of India.

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BY THE COURT:-

Reportable

All the aforesaid writ petitions filed by

different advertising companies /agencies seek to a challenge similar notice issued to them by the Jaipur Municipal Corporation on similar grounds. They were therefore heard together and are being decided by this common judgment.

Heard learned counsel for the petitioners, learned counsel for Municipal Corporation, Jaipur, State of Rajasthan and Union of India (Railways).

Learned Counsel for the petitioners argued that the hoardings which were put up by them on private buildings under due permission/license from the respondent-Municipal Corporation are being abruptly sought to be removed by issuing a general notice dated 26/4/2007 which in fact is a similar notice in respect to all the petitioners and all hoardings in Jaipur. In the notice, it is stated

that such hoardings, most of which are situated in densely populated areas, are posing thereat to public safety and proving hazardous to the traffic. Notice therefore required the petitioners to remove the hoardings within three days or else the Corporation shall proceed to do so at the cost of the petitioners. The notice lastly stated that if the petitioner wanted to advertise, they could do so by putting unipole at the same site and for that purpose, they should submit their proposals.

Shri Sagar Mal Mehta, learned Senior Counsel appearing for the petitioners submitted that the respondents have arbitrarily decided to remove all these hoardings inasmuch as, the notices have been mechanically issued without reference to any particular site or hoarding and the kind of hazard

which such hoarding was posing. No details have been furnished as to which hoarding at which site is deficient in what nature of parameters laid down by the bye-laws. Decision not to continue the hoardings at the private buildings has been taken at the executive level whereas the bye-laws issued by the Government under approval of this Court clearly provide for putting up the hoardings at private sites. It is contended that the respondents are wrongly relying on sub-clause (5) of clause 13 of the Jaipur Municipal Corporation (Advertisement) Bye-Laws, 2004 (for short “the Bye-laws”) which is general in nature whereas special provision with regard to the private buildings is contained in clause 12(2)(7). While, clause 13(5) provides that both width and length of the hoarding will be 20

feet but its height from the surface of the ground shall not be above 7 feet but sub-clause (7) of clause 12(2) has given different parameters for the hoardings to be put up on the private buildings by providing that it shall not be above 18 mtrs. from the surface of the ground. It is therefore contended that respondents are by arbitrary executive fiat trying to override the provisions of the Bye-laws. Their action is completely without the authority of law. Impugned-notices dated 26/4/2007 are liable to be set-aside because they have been issued without due application of mind. While on one hand, the said notice has stated that the hoardings have been put up by the petitioners without permission of the Municipal Corporation but on the other hand, the Corporation has been regularly accepting the license

fee from the petitioners and in view of that, allowing them to continue to display the hoardings at the disputed sites. The decision imposing a complete ban on the display of hoardings on private buildings being contrary to the Bye-laws is absolutely illegal, arbitrary and capricious. The petitioners had to rush to this Court as the remedy of appeal provided under clause 26 of the Bye-Laws is in fact no remedy in the eye of law because the appellate committee had no power to entertain and grant any interim relief inasmuch as, subsequent to implementation of the notice/order, this remedy would be a mere eye-wash. It was argued that in the facts of the case when it is evident that the decision has been taken by an incompetent authority and without affording any opportunity of hearing to

the petitioners, the decision being completely lacking in jurisdiction, would be amenable to challenge before this Court in its writ jurisdiction. It is further submitted that in case respondents wanted the petitioners to adhere to a particular provision of the Bye-Laws in respect of any particular hoarding, they ought to have atleast required the petitioners by providing them reasonable opportunity to put up their case before them or if necessary, to make necessary amends so as to bring the same in conformity with such bye-laws but the decision having been taken abruptly and without opportunity of hearing cannot be allowed to be given effect to. It is therefore prayed that the impugned notices 26/4/2007 impugned in all these petitions being arbitrary and unreasonable violates

article 14 and 19(1)(g) of the Constitution of India and are therefore liable to be quashed and set-aside.

Shri Ajeet Kumar Sharma, the learned counsel for the petitioners also submitted that when clause 12(7)(2) of the Bye-laws has given a different parameter as to the height of a hoarding at private buildings being 18 mtrs. from the surface of the ground, the guidelines contained in clause 13(5), which are general in nature restricting the height of the hoardings upto maximum 27 feet from the surface of the ground, cannot be applied particularly when the Municipal Corporation itself pursuant to the judgment dated 3/8/2005 of the Single Bench of this court in S.B. Civil Writ Petition No.2390/05 (N.S. Publicity Agencies & Ors.

Vs. State of Rajasthan & Ors.) permitted the petitioners to display hoardings at those places without any objection as to the height. It is argued that the notice having been issued by the concerned Commissioner in excess and outside the scope of his powers is liable to be set-aside. When the Bye-laws envisage and in fact provide for putting up hoardings on private buildings, blanket ban like the one, which has been imposed by the Municipal Corporation in the impugned notices, cannot be sustained in law. It is argued that no opportunity of hearing was provided to the petitioners prior to passing of the aforesaid order which although styled as notice, partakes the character of a final order vitally affecting the petitioners' right specially their right to trade guaranteed vide Article 19(1)

(g) of the Constitution of India. These hoardings are located at a certain height from surface of the ground, therefore, the direction contained in the said notice requiring the petitioners to submit alternative proposals for putting up unipoles model of the hoarding at these very sites, suffers from total non-application of mind because the respondents themselves are permitting the unipoles only on the surface of the ground. It is contended that the ostensible reason given in the order/notice that the hoardings have been displayed without due permission, is pulpably false because the respondents have been regularly accepting the license fee from the petitioners and have been permitting the hoardings to continue on the disputed sites. When the hoardings were not unsafe till now

and were not causing any threat to public safety, how suddenly they can become hazardous or unsafe, is difficult to understand. Such an assumption is completely unfounded inasmuch as, the respondents have to indicate with reference to the site of the individual hoarding as to how and in what manner it violates the safety conditions as provided in the bye-laws. Cited reason thus lacks in bonafides because if at all the respondents wanted to adhere to such a requirement, they could require the petitioners to remove the defects so as to bring the hoardings at a private site in dispute as per the measures provided for in the Bye-laws. The appeal is not an efficacious remedy because appellate committee has no power to grant interim-relief inasmuch as, the appellate committee consists of

those who have taken a decision to remove those hoardings therefore such a remedy would be a mere eye-wash.

On the other hand, Shri Manish Bhandari, learned counsel appearing for the Municipal Corporation submitted that the action is being taken in the interest of public at large so as to ensure that they are not exposed to risk and hazard to their life. Action in fact is in conformity with the judgment of the Division Bench of this Court in D.B. Civil Review Petition No.2116/2004 decided on 31/3/2005 in which this court noticed and approved clause No.13(5) of the Bye-Laws which requires the width and length of the hoardings to be 20 feet each with 7 feet extra being allowed from the surface of the ground thus, permitting maximum 27 feet height.

Shri Manish Bhandari referred to certain photographs to show that the hoardings at various places have been put up in an indiscriminate manner regardless of load bearing capacity of the building and at certain places, in breach of the aforesaid clause 13 (5) with regard to its height which was noticed and approved by the Division Bench. It was argued that the clause 13 of the Bye-laws shall have to be interpreted keeping in mind the public safety and the risk involved in continuing the hoardings at the disputed sites. The respondents have taken a uniform policy decision not to allow any hoarding, irrespective of the nature of hoarding and title of the property, whether Government or private, beyond the height of 27 feet from the surface of the ground, with the size of 20 feet wide and 20 feet

high with distance of atleast 1 feet from one another. The respondents have for safety reasons now decided to adopt the policy of advertising by putting up Unipoles on the surface of the ground. It was argued that the petitioners have the remedy of appeal under clause 26 of the Bye-laws which is an effective and efficacious remedy and if ultimately, the appellate committee is convinced that a particular hoarding is in conformity with this policy, it can always direct for its restoration. It was argued that as per the survey conducted by the respondents, there are in all 47 such sites of hoardings on different private buildings which are violating the provisions of clause 13(5) and directions of the Division Bench and as of now the respondents are proceeding to remove hoardings from

only such 47 sites whereat cluster of hoardings have been put up by the petitioners and others. It was argued that in the original judgment passed by the Division Bench in Suo Motu Vs. State of Rajasthan and ors. : D.B.C.W.P. No.4783/2003 on 20/10/2004, the Division Bench observed that the Jaipur Municipal Corporation, the National Highway Authority of India Ltd. and the Railways shall not permit hoardings on the roads and buildings, except at (a) tree-guards and railings which are raised on the dividers provided they are small, circular or rectangular in nature and (b)BOT type toilets (c)Bus shelters/stops.

Number of review petitions came to be filed by the affected parties and therefore the Division Bench while partly allowing the review petitions

modified the direction No.16 in the terms as indicated in the judgment dated 31/3/2005. Shri Manish Bhandari argued that the petitioners are their licensees and they have no absolute right to insist on continuation of the license and their right to trade is always subject to reasonable restrictions. Public safety being of utmost of importance, the petitioners cannot be permitted to continue with the hoardings at sites which are likely to prove hazardous to public safety, besides being contrary to the orders of the Division Bench referred to above. It was lastly argued that if at all there was any seeming contradiction between the direction given by this court and the Bye-laws, the same shall be taken care of in the amendment which has already been proposed and is underway.

Shri Sagar Mal Mehta, learned Sr.Advocate for the petitioners rejoined and submitted that subsequent to the judgment of the Division Bench relied on by the respondents in the context of similar ban imposed upon display of hoardings by the respondents, a learned Single Bench of this Court vide order dated 3/8/2005 directed the respondents to proceed in accordance with the provisions of law and observed that the notification putting such ban shall not come in the way. It was argued that Division Bench in the cited case was not dealing with the case of hoardings put up on private buildings. In fact, the court only noticed clause 13 and did not at all notice clause 12. Judgment of the Division Bench therefore cannot be relied on to remove the hoardings in question.

Learned counsel appearing for the Railways argued that the so far as the hoardings at the railway sites are concerned, they are located on the land owned by the railway and all the specified sites are approved under the technical supervision and after undertaking a thorough study by experts keeping in mind the hazard and risk it involves to public safety. He referred to the letter dated 4/5/2007 addressed by the Sr.Divisional Commercial Manager North Western Railway Jaipur to Commissioner (Revenue) Nagar Nigam, Jaipur in which it was contended that it was not justified on the part of the Municipal Corporation to say that the hoardings on railway sites are unsafe on account of the traffic movement. It was stated that if the Corporation feels that any particular hoarding on a

particular location is infringing the safe traffic movement, the same can be advised so as to take necessary action for getting the same in order. It was also stated in the letter that any undue course of action taken by Nagar Nigam will adversely affect the coordination between the two departments for which the responsibility would be of Nagar Nigam, Jaipur only and therefore it was suggested that the deadlock should be resolved through communication only so that harmonious relationship shall be ensured between the two departments. The letter dated 4/5/2007 is placed on record. Learned counsel for the Railways also cited the map prepared on 7/2/2006 according to which, sites of the hoardings were identified under the supervision of the engineering experts. He therefore submitted that

retention of the hoarding at those sites does not involve any risk to public safety and traffic movement. It is submitted that the Railway being a government organization, funds collected by display of the hoardings are spent by them for public good and therefore they cannot be equated with the private advertising agencies and for that matter, their sites cannot be equated with private buildings. In substance, learned counsel submits that the impugned notices issued by the Corporation imposing ban may be quashed and set-aside.

What I am called upon to decide is whether action of the respondents in seeking to remove all those hoardings, height of which is more than 27 feet from the surface of the ground being contrary to clause 13(5) of the Bye-laws, can be sustained in

law. It appears that the Division Bench of this Court in a Suo Motu Petition considered various matters related to public interest and passed different orders in the shape of guidelines to be adopted by the concerned authorities for good of all. Some such orders have been placed on record in the first case herein. It would be evident from the relevant portion of the order dated 1/10/2003 passed in D.B. Civil Writ Petition No.4783/2003 supra that the following order was passed by the court on this subject:-

> “In so far as the hoardings are concerned, all hoardings which have been put up in contravention of the Municipal (Advertisement) Regulations 1974, National Highways Authority Act 2002, and judgment o the Supreme Court dated 16/4/2001 rendered in P.Narayana Bhat Vs. State of Tamil Nadu & others, shall be immediately taken of by the concerned authorities. Remaining hoardings shall be allowed to continue till 31/3/2004, as we are told that the contracts between the advertisers and the Municipal Corporation and the

various agencies are coming to an end on that date. The Municipal Corporation shall consider the question of evolving a policy so that small circular or rectangular hoardings are put only on the tree-guards and railings which are raised on the dividers. The Corporation shall consider the question of bringing the regulations or bye-laws in tune with the aforesaid observations."

When the matter was next taken up by the court on 26/3/2004, a prayer was made by the concerned parties that the Municipal Corporation should be allowed to process the application for grant of license for putting up the hoardings in accordance with the proposed bye-laws. Such a request however was allowed to the limited extent that though the applications shall be processed but no final decision shall be taken till the amended bye-laws come into force. The court was informed that the draft bye-laws have been submitted for

approval of the government in the month of February, 2004 which shall take a decision within three weeks so that no hiatus was created by the present situation. The final orders in the aforesaid Suo Motu petition was passed by this court on 20/10/2004 (W.L.C. Raj. 2005(1) 116) touching upon the variety of issues concerning public interest, para 16 of which contained the relevant direction is quoted hereinbelow:-

> “The Jaipur Municipal Corporation, the National Highway Authority of India ltd. and the Railways shall not permit hoardings on the roads and buildings, except at the following places:
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> (a) tree-guards and railings which are raised on the dividers provided they are small, circular or rectangular in nature and
>
> (b) BOT type toilets
>
> (c) Bus shelters/stops.”

With the coming of new financial year, the affected parties including the Jaipur Municipal Corporation again approached this Court for re-consideration of the matter and as many as four review petitions came to be filed which were disposed of by a common order dated 31/3/2005, copy of which has been placed on record herein. The court noticed direction No.16 in the judgment dated 20/10/2004 and reproduced clause 13 of the bye-laws and in concluding part of the judgment, permitted the Jaipur Municipal Corporation to display the hoardings as per the provisions contained therein with the additional direction that no permission shall be granted for display of the hoardings which violated the Indecent Representation of Women (Prohibition) Act, 1986 or any such advertisement

which has the potential of adversely effecting the public interest or public welfare. The direction contained in para 16 in the order dated 20/10/2004 was therefore amended to that limited extent. What therefore I have to examine is as to whether inspite of the fact that the Jaipur Municipal Corporation (Advertisement) Bye-Laws, 2004 including clause 12 were noticed by the court and yet the court consciously approved of only clause 13 which obviously would also include its sub-clause 5 referred to above, can the action of the respondents be taken to have either violated the provisions of the Bye-laws or the court order and further whether such action is liable to be annuled being contrary to what is provided in clause 12 of the aforesaid Bye-laws. Reference has also been made to judgment

passed by the Co-ordinate Bench of this Court in its judgment dated 3/8/2005 passed in S.B. Civil Writ Petition No.2390/2005 which was filed when the respondent-Corporation issued a public notice on 24/5/2005 banning hoardings on private buildings as has now again been done by them. The said petition was jointly filed by five advertising agencies raising common grievance. Learned Single Bench however disposed of the writ petitions with the observations that “in view of the direction given by the Division Bench, it is expected from the respondents to proceed further in accordance with the provisions of law. The writ petition stands disposed of accordingly. It is made clear that the notification issued by the Municipal Corporation shall not come in the way.”

The petitioners contend that the notice dated 24/5/2005 considered in that case was similar to one dated 26/4/2007 which is impugned in the present set of petitions and therefore there should be no impediment for display of hoardings on private sites/private properties as was done in the previous financial year in accordance with the judgment aforesaid of the learned Single Bench.

No doubt, it is true that clause 12(2)(7) of the bye-laws has provided that height of the hoarding for display on the private properties shall not be more than 18 mtrs. from the surface of the ground but at the same time, it is also equally true that clause 13(5)(2) provides that minimum size of

hoarding would be 12x8 feet and maximum would be 20x20 feet and its lower part will be affixed in such a way that it is above 7 feet from the ground and not beyond that and its maximum height from the surface of the ground would be 27 feet. The petitioners are however trying to wriggle out of this clause by citing sub-clause (1) of clause 13(5) of the Bye-laws which provides that the hoardings shall be put up in such a way that it does not cause hindrance on junction of a road where two, three or four roads meet. But this argument shall have to be considered in the light of the judgment of the Division Bench of this Court in Suo Motu Vs. State of Rajasthan and ors. decided on 20/10/2004 where a limited permission was granted to the Jaipur Municipal Corporation, National Highway Authority of

India Limited and the Railways that they shall not permit hoardings on roads and buildings except at tree-guards, railings BOT type toilets and bus shelters. All concerned when they faced difficulties in the implementation of the judgment dated 22/10/2004, approached this Court again and at that time the Bye-laws, which were already in place, were cited before the Division Bench. The Division Bench consciously approved of only clause 13 of the bye-laws including its sub-clause (5) which is now sought to be implemented by the Jaipur Municipal Corporation. This would be evident from the concluding para of the aforesaid judgment that the Division Bench directed that it was appropriate to grant permission for display of the hoardings in accordance with the provisions of the Bye-laws

particularly clause 13(5) thereof which was reproduced in the judgment. Although, it is correct that the Jaipur Municipal Corporation has permitted the petitioners to put up the hoardings in violation of the aforesaid clause 13(5) of the bye-laws as well as directions of the Division Bench in the aforesaid judgment, but now the Jaipur Municipal Corporation itself has taken a decision to adhere thereto therefore such an action cannot be construed as being totally without the authority of law so as to call for any interference by this Court.

In fact, during the course of arguments, Shri Manish Bhandari, learned counsel appearing for the Jaipur Municipal Corporation has admitted that permitting the petitioners to put up the hoardings

at the disputed sites was contrary to the aforesaid directions as well as relevant clause 13(5) of the Bye-laws therefore the Municipal Corporation has taken a conscious decision not only not to allow private hoardings on private buildings but also government hoardings at government buildings, beyond the height of 27 feet from the surface of the ground. This decision, according to him has been taken in the larger interest of public safety and to avoid hazards to the security of people. He further submits that action has been initiated to amend the Bye-laws so as to bring them in conformity with the direction given by the Division Bench in its order dated 31/3/2005 to the extent of seeming inconsistency. Notwithstanding the provisions contained in clause 12 of the Bye-laws, therefore,

if the respondents have decided as a matter of policy to restrict the height of the hoardings in the spirit of the aforesaid direction of the Division Bench contained in its judgment dated 20/10/2004 read with judgment dated 31/3/2005 and above all in the larger interest of the public safety, this does call for any interference by this Court in exercise of its power of judicial review so as to command the respondents by issuing a writ of mandamus requiring them to restore old position back.

Coming now to the argument that the impugned notice which is in fact in the nature of an order requiring the petitioners to remove the hoardings has been passed without the opportunity of hearing

and therefore this court ought to interfere because the remedy of appeal before the appellate committee under clause 26 of the Bye-laws would in fact be no remedy at all as the appeal lies to them only who have taken the impugned decision. In the facts of the case, I do not see any reason to relegate the petitioners to the remedy of appeal, purposely therefore I have proceeded to examine the matter on merits. Although, it is true that the notice dated 26/4/2007 is a notice only in the name sake but in fact is an order requiring the petitioners to remove the hoardings put up by them on private buildings because they are mostly situated in densely populated area and were causing hindrance to safe movement of the traffic and would be hazardous to the public safety. But the argument complaining

violation of the principles of natural justice and nature of resultant injury has to be examined in the context of nature of right on the envil of prejudices it causes. In the present case, although, it is a fact that the respondents have not issued any formal license to the petitioners who are mostly advertising agencies but have been accepting the license fee from them on month to month basis issuing receipt therefor and in lieu thereof, permitting them to put up hoardings in the sense that they have not been raising any objection on continuation of such hoardings on given site and did never proceed to remove them. There appears to have developed a mutual understanding between the advertising agencies and the Jaipur Municipal Corporation where the Corporation accepted the

license fee on month to month basis and in some cases, even for two or three months and allowed uninterrupted display of hoardings. But this practice was always based on a clear understanding that the license was granted and presumed by conduct of the parties to have been granted only on year to year basis. When the financial year 2003-04 was about to close, a prayer was made by all concerned including some of the petitioners to this Court to permit them to process the applications for grant of license to put up hoarding as per the Bye-laws. A limited permission was given by the Division Bench that the applications shall be processed but the final decision shall not be taken till the Bye-laws come into force and thereafter again the Municipal Corporation issued a public notice when the

financial year 2004-05 was about to expire on 24/3/2005, a writ petition, as referred to above, was filed by as many as five advertising agencies which was disposed of by the Single Bench of this Court by its judgment dated 3/8/2005 and this time again the dispute has arisen at the commencement of the financial year 2006-07. Much though the petitioners may argue that they have been permitted to act on the license which they considered deemed granted by conduct of the Municipal Corporation, such license cannot be presumed to subsist in perpetuity. Besides being on year to year basis, a license from the very nature of the right it carries, can not be raised to the status of a permanent grant.

Besides, right of a licensee to ask for

renewal is not a absolute right. Such a right, is always subject to conditions of its grant which need not necessarily be only those applicable at the time when the license is originally granted but may also be such conditions which are added later provided such conditions are not based on irrelevant and extraneous considerations or are not intended to purposely eliminate the particular licensee.

Above all, any such license has to yield to the overriding considerations of public good, public safety and public interest. Municipal Corporation is fully competent under Section 90(1)(ac) of Rajasthan Municipalities Act read with the Bye-laws 2004 to introduce and enforce regulatory measures thereby restricting height, length and width of the

displayed hoardings.

If the respondents have taken a decision to adhere to a particular height keeping in mind the risks and hazards involved to public safety and traffic movement and more particularly, if such a decision in fact is based on the directives of this Court and is intended to be applied uniformly to private hoarding at the private sites as also the governments hoardings at the government sites, curtailing the requirement of opportunity of hearing at the end of licensing year cannot be said to have caused any prejudice to the petitioners because continuation of the hoardings at the given sets was always dependent on renewal of the license.

Adverting now to the argument about the right of the petitioners to trade sought to be raised on the basis of fundamental right contained in Article 19(1)(g) of the Constitution, it should be observed that such a right cannot be taken as an absolute right and this right is always subject to reasonable restrictions. Apart from the fact that the respondents are seeking to remove only such hoarding which violates clause 13(5) supra, the respondents themselves have permitted the petitioners to put up the Unipole model of hoardings and required them to submit such proposal as per rules, which would mean that petitioners have not been completely debarred from putting up the hoardings and staying in the trade and therefore considering from this point of view also no such grave prejudice can be said to

have been caused to the petitioners by mere reason of the fact that they were not provided opportunity of hearing prior to issuing impugned notice dated 26/4/2007.

So far as the argument of the learned counsel for Railways are concerned, in the first place, I find their impleadment to some of these petitions wholly unnecessary because no relief has been prayed for against them nor has it been shown whether any such notice was issued to them too. Nonetheless, it must be observed that inspite of the fact that certain hoardings may have been put up on railway properties, that by itself would not mean that hoarding on their sites are not subject to regulatory measures by concerned local authorities under relevant local laws. When Indian Railways,

like any other owner of the private property, seek to use their properties for display of bills/hoardings for profit motive, they can not claim any different, nay, preferential, treatment when it comes to subjecting such properties to uniform regulatory measures. This would be all the more so as it has been given out that such measures shall be equally applied to the

display of hoardings by the State Government on properties owned by it.

In the facts of the present case therefore, there being no merit in the petitions, I do not see any valid reason for issuing writ of mandamus by this Court requiring the petitioners to continue to retain hoardings at the disputed site as they were

existing in the previous financial year. In my considered opinion, the impugned order/notice cannot be in totally of the circumstances held to be arbitrary, capricious and unreasonable or violative of Article 14 and 19(1)(g) of the Constitution of India.

The writ petitions are accordingly dismissed though without any order as to costs.

anil **(MOHAMMAD RAFIQ), J.**

S.B. CIVIL WRIT PETITION NO.3451/2007.

M/s.Thukral Advertisers
Vs.
State & ors.

Date of Order : 8/5/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Ajeet Kumar Sharma for petitioner.

Shri B.S. Chhaba Dy.GA for the State.
Shri Manish Bhandari for Municipal Corporation Jaipur respondent No.2.

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In view of the judgment rendered in similar S.B. Civil Writ Petitions No.3422/2007, 3423/2007, 3424/2007, 3425/2007, 3259/2007, 8809/2006 and 9512/2005 decided on 7/5/2007, this writ petition is also dismissed however without order as to costs.

(MOHAMMAD RAFIQ), J.